

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TANYA ALEXANDER : CIVIL ACTION
v. :
: :
WAL-MART STORES EAST, LP, et al.: NO. 07-cv-03712-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

March 23, 2009

Plaintiff suffered a slip-and-fall injury in a Wal-Mart store. There is evidence that a Coca-Cola machine was leaking water (in fact, that water was spurting out of the back of the machine) in immediate proximity to the check-out counters. As plaintiff attempted to change from one check-out line to another, she slipped and fell on a puddle of water. Plaintiff is suing both Wal-Mart and Coca-Cola, which provided the offending machine.

Both defendants have filed motions for summary judgment. I conclude, however, that there is enough material in the summary judgment record to give rise to material disputes of fact, as to both defendants. Should the employees in the immediate vicinity of the Coke machine have noticed the spilling water and alerted patrons sooner? Did they have some responsibility for monitoring the situation? (There is evidence that such machines tend to leak when the temperature adjustment is not correct.) Was Coca-Cola responsible for providing a machine not safe for its intended use?

Although it is a close question, I conclude that the case is not amenable to summary disposition. The fact-finder must be accorded a role.

An Order follows.

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ORDER

AND NOW, this 23rd day of March 2009, upon
consideration of the defendants' motions for summary judgment,
and plaintiff's response, IT IS ORDERED:

Both motions for summary judgment are DENIED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.
